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South Carolina House of Representatives



Legislative Update

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Robert J. Sheheen, Speaker of the House

STATE DOCUMENTS

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OFFICE OF RESEARCH

Room 309, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803)734-3230

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House Week in Review

On Tuesday, the House gave second reading to H. 4391, a bill requiring the South Carolina Criminal Justice Academy to furnish bulletproof vests to law enforcement officers. Before passing this legislation, the House amended the bill to provide that the Academy need not furnish these vests to officers who would be provided a vest by the officer's employing agency and to provide that an officer or member of his family may not bring a civil action against the Criminal Justice Academy, the State or its political subdivisions for damages arising out of use of the vest. Also that day, the House took up H. 4421, a bill requiring persons under age 17 to complete a driver training course before they may be issued drivers' licenses. After several amendments were adopted to the bill, however, a representative brought up a point of order that the legislation violated a house rule which requires bills that appropriate money to be referred to the House Ways and Means Committee. The Speaker sustained this point of order and ordered H. 4421 referred to that committee.

On Wednesday the House and Senate convened in joint session to elect judges for several judicial circuits and to elect members of the Old Exchange Building Commission. Election results were as follows:

Circuit Judges (Election for 6-Year Terms)

3rd Circuit.....David F. McInnis*
(Clarendon, Lee, Sumter & Williamsburg Counties)

4th Circuit.....Edward B. Cottingham*
(Chesterfield, Darlington, Marlboro & Dillon Counties)

5th Circuit.....L. Casey Manning
(Kershaw and Richland Counties)

7th Circuit.....E.C. Burnett*
(Cherokee and Spartanburg Counties)

8th Circuit.....James W. Johnson, Jr.*
(Abbeville, Greenwood, Laurens & Newberry Counties)

9th Circuit.....William L. Howard*
(Charleston and Berkeley Counties)

11th Circuit.....William P. Keesley*
Marc H. Westbrook
(Lexington, Saluda, Edgefield & McCormick Counties)

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12th Circuit.....John H. Waller, Jr.*
(Florence and Marion Counties)
13th Circuit.....C. Victor Pyle, Jr.*
(Greenville and Pickens Counties)
14th Circuit.....Gerald C. Smoak, Sr.*
(Allendale, Hampton, Colleton, Jasper & Beaufort Counties)
Circuit Court Judge At-Large (Seat 2)..R. Markley Dennis, Jr.

*Denotes Incumbent Judge

Old Exchange Building Commission
(Election for terms of 6 years)

Capt. John S. Coussons
Mr. Sherman F. Smith
Mrs. Louise Burgdorf

The House on Thursday gave approval to H. 4350, a bill which makes trafficking in crack cocaine a violent crime and which prohibits persons convicted of this crime and sentenced to a mandatory minimum 25 years' imprisonment or mandatory imprisonment of 25 years or more from being eligible for parole, extended work release or supervised furlough. Also that day, the House continued debate on H. 3267, the Woman's Right to Know Act, requiring a waiting period and the provision of medical and other information before a woman may obtain an abortion. The House tabled an amendment to eliminate a waiting period, but more amendments to the bill remain to be considered when the House returns this week.

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Bills Introduced

The following bills were introduced in the House of Representatives last week. Not all bills introduced in the House are featured here. The bills are listed by the committee to which the legislation was referred.

Agriculture, Natural Resources and Environmental Affairs

Unlawful to Hunt Game Within 100 Yards of a Business or Residence (H. 4645, Rep. Corning). This bill is identical to H. 4425, introduced in the House during the first week of the 1994 session (summarized in the January 18 Update). Both bills prohibit anyone from hunting game, including small game, big game and migratory waterfowl, within 100 yards of a business or residence without the permission of the owner or occupant of the business or residence. This prohibition does not apply to a landowner hunting on his own land. A person violating these provisions is guilty of a misdemeanor and upon conviction must be fined not more than \$200 or imprisoned not more than 30 days.

Labeling and Marketing of Eggs (S. 796, Sen. Leventis). This bill revises provisions pertaining to the sale, labeling and marketing of eggs. The bill deletes provisions requiring the licensure by the Department of Agriculture of retailers who handle eggs and provisions pertaining to the sale of eggs and baby chicks. The bill revises the South Carolina quality standards of shell eggs to provide these standards are the same as the United States standards and their supplements and revisions as published by the U.S. Department of Agriculture. The penalties imposed on a person convicted of unlawful marketing and labeling of eggs are increased, so that a person upon conviction must be fined between \$200 and \$500, as currently opposed to between \$25 and \$100, or imprisoned not more than 90 days, instead of the current maximum sentence of 30 days, or both. The bill also allows the Commissioner of Agriculture to assess or recover civil penalties for violations of these provisions. The commissioner may bring a civil action in a court of competent jurisdiction to recover a civil penalty or may assess a civil penalty following an administrative hearing conducted by the commissioner or his designee. The civil penalty which may be recovered or assessed is between \$100-\$200 for the first violation; \$250-\$500 for a second violation within 2 years of the date of the first violation; and \$1,000-\$5,000 for a third violation within 2 years of the first violation.

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Education and Public Works

Applied Academic Courses Considered Equivalent to Courses Meeting Pre-College Curriculum Requirements (H. 4649, Rep. Townsend). This bill provides that beginning with the 1994-1995 school year, applied academic courses in math, science and communication skills are considered equivalent to those courses which meet pre-college curriculum requirements so that applicants to 4-year post-secondary institutions can receive advance standing or credit at those institutions. School districts must certify, however, that the applied academic courses offered are equivalent to the pre-college curriculum requirements.

Additional Contents of Driver's License (H. 4661, Rep. J. Harris). This bill requires the Department of Revenue and Taxation to place on the front of every driver's license issued the words "Don't Drink and Drive, Don't Litter South Carolina."

Logs Carried in Trucks May Not Protrude More Than Three Feet Outside Truck (H. 4666, Rep. Worley). This bill prohibits logs or pulpwood in a truck or truck trailer being transported on the State's highways from protruding or sticking out of the rear of the vehicle by more than three feet. Any person operating a vehicle in violation of these provisions is guilty of a misdemeanor and upon conviction must be fined not more than \$100 or imprisoned not more than 30 days. The bill provides that this penalty also applies to persons who operate vehicles in violation of the current state law requiring loads on vehicles to be securely fastened.

Deletion of Provision Allowing Child to Attend Public School in School District Where He Owns Real Estate (H. 4676, Rep. Kirsh). This bill deletes a provision which allows a child to attend public school in any school district in which the child owns real estate having an assessed value of \$300 or more.

School District Employees May Not Serve on District Board of Trustees (H. 4678, Rep. Wells). This bill prohibits anyone employed by a school district of South Carolina from serving as a member of the board of trustees of that school district. A district employee who is a member of the board when these provisions become effective, however, could continue to serve the term for which he was elected.

South Carolina School-To-Work Transition Act (H. 4681, Rep. McElveen). This bill establishes a school-to-work system under which students would be equipped with the academic and occupational skills necessary to enter the work force.

Under these provisions, as a part of the school-to-work system, the State Board of Education must establish a structure for preparing students for employment and lifetime learning. This structure must expand upon the current Tech Prep model to include 4 components---(1) quality schooling having a rigorous curriculum; (2) career counseling; (3) work exploration and

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experience; and (4) structured work-based learning. The Board, beginning with school year 1994-1995, must establish by regulation quality schooling which at a minimum must include a rigorous, relevant academic curriculum and changes in vocational programs. Additionally, beginning in school year 1996-1997, the Board must establish regulations for career exploration and counseling, mentoring opportunities and structured work-based learning opportunities. The bill lists components which must be included in these various programs. By school year 1995-1996, school district boards of trustees must implement the rigorous academic changes and changes to vocational education programs, as directed by the State Board of Education; develop plans for elimination of the high school "general track" curriculum by school year 1996-1997; and implement career exploration and counseling by school year 1996-1997.

No later than July 1, 1994, the Director of the Department of Commerce, with the State Superintendent of Education, must convene a School-to-Work Task Force representing a broad-based coalition of business and industry leaders and with representatives of several state agencies, school districts and postsecondary institutions, as listed in the bill. The task force must guide, encourage and facilitate actions which enable the school-to-work system to be implemented, and must work with the State Board of Education to provide input to shape the development and scope of a statewide initiative; promote the school-to-work system to key employers and education leaders across the State and encourage active participation of employers; and identify and recognize exemplary programs and practices. By January 1, 1996, the task force must report to the House Education and Public Works and Senate Education Committees as to progress made in establishing a school-to-work system and any actions required by the General Assembly to ensure success of the system.

The school-to-work system established under these provisions must be coordinated with the State's Job Training Partnership Act delivery system at both the state and local levels. This coordination is to be done in recognition of the need to link education and labor in the planning and delivery of youth apprenticeship programs and the increasing emphasis on partnerships between labor and education in pending federal school-to-work legislation.

Beginning with the 1995-1996 school year, completion of applied academic courses in math, science and communication skills must fulfill high school prerequisite requirements as equivalent to precollege curriculum requirements for applicants to 4-year postsecondary institutions, unless by December 1, 1994 a 4-year institution reports its reasons for not accepting these courses to the House Education and Public Works and Senate Finance Committees. School districts must certify that the applied academic courses are equivalent to precollege curriculum requirements.

The bill also requires representatives of various state departments to be convened by the Department of Commerce to conduct a feasibility study and make recommendations regarding tax credits for work-based programs,

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maximizing government and private funding spent on education, and issues related to workers' compensation, insurance and liability as pertains to the school-to-work system. Findings from the study, along with recommendations, must be made to the School-to-Work Task Force and several legislative committees, as specified in the bill, within 6 months after this act becomes effective.

This bill also prohibits any child under age 16 enrolled in middle or high school from being employed more than 20 hours a week during the regular school year, except during holiday periods. Children age 16 or 17 enrolled in school may work more than 20 hours a week during the regular school year only if the child's employer receives written approval for the child to work additional hours from the child's parent or guardian and from the child's principal.

Judiciary

Write-In Votes May Be Cast For President and Vice President (H. 4639, Rep. Harvin). This bill deletes current provisions which prohibit write-in votes for president and vice president from being cast and lists a procedure for allowing write-in voting for these offices.

Payment and Performance Bond Required Before Performance of Public Works and Other Projects (H. 4644, Rep. Corning). This bill requires anyone entering into a formal contract with the State or any of its political subdivisions or public authorities for the construction or repair of a public building or public work to execute, deliver to the public owner and record in the public records of the county where the improvement is located a payment and performance bond with a surety insurer authorized to do business in South Carolina as surety. Execution of this bond is required before work on the public work or building may be commenced. The bill lists information which must be provided on the bond and requires the bond to be conditioned that the contractor perform the contract in the time and manner prescribed in the contract and make prompt payments to persons whose claims derive directly or indirectly from the prosecution of work provided for in the contract. The claimant must have a right of action against the contractor and surety for the amount due him, under conditions as specified in the bill, but this action must not involve the public authority in any expense. As an alternative to executing this bond, a contractor may file with the State, county, city or other political authority an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, an irrevocable letter of credit, or other security of a type approved by the secretary of state.

The payment and performance bond is not required when work on these projects is done for the State and the contract does not exceed \$100,000, and any person entering into a contract of \$200,000 or less for work done for any county, city, political subdivision or public authority may also be exempt from the bond requirement at the discretion of the official or board awarding

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the contract. When these public works are done for the State, the director of the Division of General Services may delegate to state agencies the authority to exempt any person entering into a contract of more than \$100,000 but less than \$200,000 from executing the bond, and if this exemption is granted, then the officer or officials are not personally liable to persons suffering loss because the exemption is granted.

Aliens Owning Real Property Must File Deed with Secretary of State (H. 4650, Rep. Rudnick). This bill requires all aliens, along with their agents and servants, to file property ownership information with the Secretary of State for any property owned or purchased in South Carolina by an alien or his agent or servant. Under these provisions, all aliens owning real property and all agents and servants of aliens owning real property for the benefit of aliens on the effective date of this act, along with aliens who purchase real estate and all agents of aliens who purchase real estate for the benefit of aliens after the effective date of this act, must file a copy of every deed which evidences the ownership or purchase with the Secretary of State. Filing of ownership deeds must occur within 90 days after the effective date of this act, while filing of purchasing deeds must occur within 30 days after the date of purchase. When real property owned of record by an alien or by an alien's agent or servant for the benefit of the alien is sold or otherwise conveyed, then the grantor must file a report of the conveyance with the Secretary of State within 30 days after the date of conveyance. Anyone failing to comply with these provisions must forfeit to the State a penalty of \$500 a day for each day of noncompliance.

Popular Election of Justices and Judges (H. 4652, Rep. Rudnick). This joint resolution proposes to amend the Constitution so as to require that members of the Supreme Court, Court of Appeals, Circuit Court and other courts of uniform jurisdiction (currently, Family Court and Probate Court) be elected by the state's voters. This election requirement would not apply to magistrates or municipal court judges. The terms of members of the Supreme Court, Court of Appeals and Circuit Court would remain the same (currently 10 years for the Supreme Court and 6 years for the Court of Appeals and Circuit Court), and current members of those courts would be allowed to finish the term for which they were elected. The General Assembly must by law provide for the manner in which these elections are to be conducted.

Subversive Activities Registration Act Repealed (H. 4654, Rep. Kirsh). This bill repeals the State's Subversive Activities Registration Act. Currently in effect, this act requires every organization, foreign agent and person which/who resides, transacts business or attempts to influence political action in South Carolina to register with the Secretary of State if the organization/person advocates the violent seizure or overthrow of the government of the United States, South Carolina or any political subdivision of this state.

Collection and Disbursement of Court Fines (H. 4659, Rep. Hodges). This bill lists new provisions for the collection and distribution of court fees, fines and penalties. The bill provides that 56 percent of revenues (fees,

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fines, etc.) generated by the circuit courts and family courts must be remitted to the county where the proceeding is instituted, with 44 percent remitted to the State Treasurer. Additionally, the bill provides that a person who is convicted, pleads guilty or nolo contendere or forfeits bond for an offense tried in general sessions or family court must pay an assessment equal to 62 percent of the fine imposed for the offense. A person convicted for an offense tried in magistrate's court must pay an assessment equal to 88 percent of the fine imposed for the offense, while a person convicted for an offense in municipal court must pay a 68 percent assessment. Revenues collected from these assessments must be remitted to the State Treasurer, who must deposit the assessments in the State's General Fund and for various state departments and offices as provided in the bill. The bill requires the state auditor to examine at least once a year the records of county clerks of court, magistrates and municipal courts to ensure that the fines and assessments are being properly imposed and collected. The bill also deletes several current provisions pertaining to collection and disbursement of fines.

Persons May Serve as Jurors More Than Once Every Three Years (H. 4662, Rep. Hodges). Under current law, no person may serve as a juror more than once in three calendar years. This bill would allow a person whose name has been properly drawn and who desires to be on a jury to serve as a juror more than once every three years. However, no person may serve as a juror more than once every year.

Payment of Court Fines and Assessments by Credit Card (H. 4665, Rep. Worley). This bill provides that whenever state law permits payment of fines or assessments imposed by a municipal, magistrate or circuit court, then payment may be made by bank card draft from any valid, unexpired credit card approved by the State Supreme Court and the State Treasurer. Additionally, when state law permits payment of cash in lieu of another form of recognizance in a court of this state, payment may also be made by a bank card draft from a credit card. If the approved bank card issuer imposes a fee for utilization of a credit card, then the fee must be added to the fine or assessment and paid by the defendant or, in the case when the fee is added to the amount of the recognizance, paid by the person providing the bond by bank card draft. If recognizance is not forfeited, then the amount of the bond less the fee imposed by the bank card issuer must be reimbursed to the person providing the bond by use of a bank card draft. If adopted, these provisions would be effective July 1, 1994.

DNA Identification Record Database Act (H. 4668, Rep. Hutson). This bill establishes in the State Law Enforcement Division (SLED) a DNA (Deoxyribonucleic) Identification Record Database, through which SLED must develop DNA profiles on samples for law enforcement, humanitarian and nonlaw enforcement purposes. The bill requires persons convicted or adjudicated delinquent for various criminal sexual offenses (e.g., criminal sexual assault in first or second degree, with a minor, etc.) and, when ordered by the court, persons convicted of other criminal offenses, to submit DNA samples for inclusion in the State DNA Database. The samples must taken by

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authorized health care workers and must be submitted to SLED, which must then develop a DNA profile on the sample. The bill lists the purposes for which the DNA profile on a sample may be used, which include, among others, to generate investigative leads in criminal cases, develop a convicted offender database to identify suspects in otherwise nonsuspect cases, and assist in the recovery and identification of human remains from mass disasters. SLED must purge DNA and other identifiable record information from the Database and destroy a person's sample if SLED receives a person's request for expungement of his DNA record and a certified copy of the court order reversing, setting aside or vacating the conviction or adjudication, along with proof that the identity of the person making the request is the person whose record is to be expunged. If a person has more than one entry in the Database, however, only the entry covered by the expungement may be erased.

Results of the DNA profile of an individual are confidential, except that SLED must make the results available to law enforcement agencies, approved crime laboratories which serve those agencies, the solicitor or his designee in furtherance of an official investigation of a criminal offense, or pursuant to a court order. Anyone who wilfully discloses individually identifiable DNA information contained in the DNA Database to a person or agency not entitled to receive this information, or anyone who wilfully obtains this information from the Database without authorization, is guilty of a misdemeanor and upon conviction must be fined not more than \$500, imprisoned not more than 1 year, or both.

A person required to provide a DNA sample under these provisions must pay a \$250 processing fee, which may not be waived by the court. If the person is incarcerated, then the fee must be paid before he is paroled or released from confinement and may be garnished from wages the person earns while incarcerated. If the person is not sentenced to confinement, then payment of the fee must be a condition of the person's sentence and may be paid in installments if ordered by the court. The processing fee must be remitted to the State's general fund and credited to SLED to offset its expenses in carrying out this program.

Persons Convicted a Second Time of Certain Property Crimes Must Be Punished Based on Next Greater Penalty Classification (H. 4672, Rep. D. Smith). This bill requires a person convicted a second or subsequent time for an offense for which the term of imprisonment is contingent upon the property value involved to be fined, imprisoned or both based on the next higher classification provided for the principal offense. Currently the penalty must be based on the next higher classification if the offender is convicted a third or subsequent time of the property offense.

Death Penalty May Be Imposed Upon Affirmative Vote of 10 Jurors (H. 4675, Rep. Clyborne). This bill would allow a jury to recommend the death penalty for a person convicted of murder upon an affirmative vote of at least 10 jury members. Currently, a recommendation of the death penalty for murder requires the unanimous vote of the jury.

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Principal Must Be Notified When Child Taken Into Custody By Officer For Offense Which Would Be a Felony or Misdemeanor If Committed By Adult (H. 4682, Rep. Simrill). This bill provides that when a law enforcement officer takes a child into custody for an offense which would be a felony or misdemeanor if committed by an adult, the officer must notify the principal of the school where the child is enrolled, if any, of the nature of the offense. The principal may use this information for monitoring and supervisory purposes but otherwise must keep this information confidential. These provisions do not apply to any traffic or wildlife violations over which courts other than the family court have concurrent jurisdiction.

Labor, Commerce and Industry

Permanent Metal Plates With Serial Numbers Must Be Affixed to Manufactured Homes (H. 4641, Rep. J. Wilder). This bill prohibits anyone from selling or offering for sale a manufactured home unless a permanent metal plate, imprinted with the serial number, is affixed to the home within 3 feet of its principal door.

Telecommunication Services (H. 4642, Rep. Hodges). This bill requires telecommunication services provided by interexchange telecommunications carriers, as defined by the Public Service Commission (PSC), to be deemed to be competitive services after July 1, 1994. The PSC is required to conduct hearings, make findings and establish benchmarks as to the competition now existing among the interexchange telecommunication carriers (hereafter called "carriers").

The PSC may regulate interexchange competitive services to the extent that it may require these carriers to file and maintain price lists for competitive telecommunications services, and the commission also may regulate the privacy of interexchange service and the ordering, installation, restoration and disconnection of interexchange service to South Carolina customers. The commission also is authorized under specified conditions to reclassify telecommunications services provided by an interexchange carrier as noncompetitive and may also establish service quality standards for these carriers and determine whether a carrier should be allowed to operate within the State. Except as listed under these provisions, the PSC must not regulate interexchange competitive services.

Price Tag Must Be Affixed to Items Sold in Grocery Stores and Supermarkets (H. 4651, Rep. Rudnick). This bill requires a price tag to be affixed to every item sold in a grocery store or supermarket. The tag must be in Arabic numbers and be visible to the purchaser.

Persons With Coverage for Mental, Emotional or Nervous Disorders Must Be Allowed to Select Provider to Treat the Disorder (H. 4656, Rep. T.C. Alexander). This bill requires every insured who is covered for mental, emotional or nervous disorders to be allowed to select the physician licensed to practice medicine in all its branches or licensed master social worker,

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independent social worker, professional counselor, marriage and family therapist or psychiatric clinical nurse specialist of his choice to treat the disorder or condition. The insurer is required to pay the covered charges for the physician or other authorized health provider as listed above up to the limits of coverage, provided that (1) the disorder or condition treated is covered by the insurance policy and (2) the physician or other health provider is licensed by the State.

Bingo Sessions May Be Conducted on Mornings (H. 4677, Rep. Keegan). This bill would extend the hours of Bingo sessions, so as to allow sessions to be conducted beginning at 9:00 am. Currently Bingo sessions may only be conducted between Noon and Midnight.

Weights and Measures (S. 706, Sen. Leventis). This bill revises provisions pertaining to the use of weights and measures in this State, as follows:

---Provides that except as modified or rejected by regulation, the following regulations, their supplements and revisions, adopted by the National Conference on Weights and Measures apply to the following activities in South Carolina:

(a) The Uniform Packaging and Labeling Regulations apply to packaging and labeling in South Carolina;

(b) The Uniform Regulation for the Method of Sale of Commodities apply to the method of sale of commodities in South Carolina;

(c) The Uniform Regulation for the Voluntary Regulation of Servicepersons and Service Agencies for Commercial Weighing and Measuring Devices apply to the registration of servicepersons and service agencies in this state; and

(d) The Uniform Regulations for National Type Evaluation apply to type evaluation in South Carolina.

---Requires the Consumer Services Division of the State Department of Agriculture, in enforcing weights and measures standards for trade and commerce, to perform several functions, including, among others, assuring that weights and measures in commercial service are suitable for their intended use and promoting uniformity between weights and measures requirements of South Carolina and other states and federal agencies.

---Allows the Commissioner of Agriculture to bring a civil action in a court of competent jurisdiction to recover a civil penalty for violations of the Uniform Weights and Measure Law. The commissioner or his designee also may conduct an administrative hearing and assess a civil penalty for a violation of these provisions. In either situation, the civil penalty is between \$100-\$200 for the first violation; \$250-\$500 for a second offense within 2 years of the first offense; and \$1,000-\$5,000 for a third offense within 2 years of the first offense.

---Makes it unlawful to sell or offer for sale for use in commerce an incorrect weight or measure, punishable as follows: fine of \$200-\$500 or

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imprisonment not more than 3 months or both (1st offense); fine of \$500-\$1,000 or imprisonment not more than 1 year or both (subsequent offense). Upgrades penalties for persons convicted of misdemeanors (i.e., using incorrect weights in commerce, removing tags from weights, etc.) to correspond with penalty for using incorrect weight or measure. Makes it a felony (upon conviction, penalty of fine of at least \$10,000, imprisonment not more than 10 years, or both) to intentionally violate the Uniform Weights and Measures Law or regulations promulgated pursuant to it, use or have in possession a device which has been altered to facilitate fraud, or if a person has been convicted of violating weights and measures provisions more than three times in a two year period.

---Requires the Commissioner of Agriculture to allow for reasonable weight measures from the stated quantity of contents and provide for the training of weights and measures personnel. The commissioner also may establish minimum training and performance requirements which must be met by all weights and measures county, municipal or state personnel.

Copies of Annual Reports of State Occupational and Licensing Boards Must Be Maintained and Available at Offices of the Budget and Control Board (S. 1048, Sen. Courson). This bill requires that copies of annual reports of state occupational and professional licensing boards be maintained and available for public inspection at the offices of the Budget and Control Board, instead of, as currently required, at the Secretary of State's offices.

Medical, Military, Public and Municipal Affairs

Reauthorization of State Board of Examiners in Psychology (H. 4643, Rep. Kirsh). This bill reauthorizes the State Board of Examiners in Psychology for 6 years and changes several provisions pertaining to the practice of psychology as follows:

---Deletes provisions under which a psychologist who accepts for extended psychotherapy a client who is not a medical referral must refer the client to a qualified physician for a medical examination.

---Requires anyone seeking licensure as a psychologist to furnish to the Board references of individuals having personal knowledge of the candidate's professional experience and competency and prohibits the Board from requiring more than 3 references. Additionally, the candidate must provide evidence that he has completed 2 years of supervised experience as approved by the board.

---Deletes a requirement that a complaint by any person against a licensed psychologist must be submitted to the Board in the form of an affidavit.

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---Allows the Board to revoke, suspend or restrict the permit of a psychologist when he is guilty of misconduct. (Currently the Board may revoke, suspend or restrict only the license of the psychologist for such misconduct.) Additionally, deletes a provision allowing a psychologist to be disciplined for hiring or compensating a solicitor to obtain patronage.

---Allows the Board in its own name to maintain a suit for an injunction against a person who violates state laws pertaining to the practice of psychology and provides that the suit must be commenced and prosecuted before an administrative law judge. The injunction may be issued without proof of actual damage sustained by a person, and the injunction does not relieve a person from criminal prosecution for violation of provisions pertaining to practice in this field. The attorney general's office, if requested by the Board, must represent the Board in connection with legal proceedings undertaken pursuant to state provisions governing the practice of psychology.

Reauthorization of State Board of Examiners in Optometry and Revised Requirements for Registered Optometrists (H. 4663, Rep. Kirsh). This bill reauthorizes the South Carolina Board of Examiners in Optometry for 6 years and requires an applicant seeking certification as a registered optometrist to have met all requirements for therapeutic certification. An optometrist who holds a valid registration or who is diagnostically certified is not required to be therapeutically certified as a condition of maintaining registration or diagnostic certification or obtaining renewal, but the optometrist must meet the therapeutic certification requirement if his registration or diagnostic certification is suspended or revoked and he seeks reinstatement of his registration or certification. The bill also prohibits the Board from prescribing or restricting the location of optometrists' offices and deletes provisions which allow optometrists to use mobile units. Additionally, the bill requires a person seeking licensure as a diagnostically certified optometrist to pass a pharmaceutical examination which is approved, as currently opposed to administered, by the Board, and requires a person seeking licensure as a therapeutically certified optometrist to pass the Treatment and Management of Ocular Disease Examination as approved, instead of administered, by the National Board of Examiners in Optometry.

Reauthorization of State Board of Dentistry (H. 4664, Rep. Kirsh). This bill reauthorizes the State Board of Dentistry for 6 years and makes several changes pertaining to the practice and oversight of dentistry in South Carolina. The bill enlarges the membership of the State Board of Dentistry from 9 to 11 members and increases from 1 to 2 the number of board members who must be dental hygienists. Of the 2 board members who are dental hygienists, 1 must be a registered practicing dental technician from the state at large. The bill also revises conditions under which dental hygienists may administer certain services in school settings and prohibits the Board of Dentistry from promulgating regulations which restrict advertising by dentists and others under board regulation, except that

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regulations may be promulgated to prohibit false, deceptive or misleading practices by the persons regulated.

As pertains to dental licensing examinations, and registration of an orthodontic technician, each applicant is required to provide no more than 3 references of individuals having personal knowledge of the applicant's professional experience and competency. An applicant for registration as a dental technician must pass an examination prepared by a nationally recognized board of certification for dental technology or present proof to the Board of Dentistry that he is certified by a nationally recognized board of certification for dental technology.

As pertains to enforcement of provisions restricting the license or registration certificates of dental workers because of illness or substance abuse, the State Board of Dentistry may, upon reasonable grounds, require a licensee, registrant or applicant to submit to a mental or physical examination by physicians designated by the board, and the board also may obtain records pertaining to the person's mental or physical condition. Results of the examination and these records are admissible in a hearing before the Board. The Board must automatically enter an order suspending or revoking the license or registration of the licensee, applicant or registrant if he refuses to submit to the examination or refuses to consent to release of these records to the board. A person who is prohibited from practicing dentistry or dental hygiene or performing dental technology because of these provisions must be granted the opportunity at reasonable opportunities to demonstrate to the Board the ability to resume or begin practice in dentistry with reasonable skill and safety to patients.

Creation of Alzheimer's Disease and Related Disorders Resource Coordination Center (S. 926, Sen. Giese). This bill creates the Alzheimer's Disease and Related Disorders Resource Coordination Center in the Governor's Office Division of Aging. The purpose of this center is to provide statewide coordination, service system development, information and referral, and caregiver support services to individuals with Alzheimer's disease and related disorders, their families, and caregivers. The bill lists the duties of the Center, which include, among others, facilitating the coordination and integration of Alzheimer's research, program development, planning and quality assurance and recommending public policy concerning the disease and related disorders to the General Assembly. The bill also requires the coordination center to be supported by an advisory council appointed by the governor. The council must include representatives of several of the state's universities (Clemson, USC and MUSC) and state government Departments, along with representatives of the Alzheimer's Association chapters and a number of other health and social service organizations. Members of this advisory council are not entitled to mileage, per diem, subsistence or any other form of compensation.

Family Support Services for Persons with Head or Spinal Cord Injuries or Similar Disabilities (S. 936, Sen. Lander). Currently, the Department of Disabilities and Special Needs operates a Family Support Services Program to

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assist families who choose to support a family member with mental retardation or a related disability in their home. This bill would extend the provisions of the program to individuals (i.e., those caring for themselves) with mental retardation or similar disabilities and to individuals with head injuries, spinal cord injuries or similar disabilities, along with their families. The bill also expands the services provided by the Family Support Program to include work site modifications.

Transport of Persons to Mental Health Facilities by Alternative Means (S. 938, Sen. Bryan). Under current law, a person to be admitted to a hospital, mental health facility or clinic for emergency admission must be transported to the facility by a law enforcement officer or by the person's friend or relative. This bill would allow an alternative transportation system utilizing peer supporters and case managers to be arranged for nonviolent persons requiring mental health treatment. This program may be utilized upon written agreement between the local law enforcement agency, the governing body of the local government, and the directors of the community mental health centers. The agreement must clearly define the responsibilities of each party and the requirements for program participation.

Organ and Tissue Donor Program (S. 946, Sen. Courson). This bill establishes an Organ and Tissue Donor Program in the Department of Health and Environmental Control (DHEC). The purpose of this program is to promote organ and tissue donations. The bill also requires the Department of Revenue and Taxation to offer to persons seeking to obtain or renew a driver's license an opportunity to contribute one dollar (\$1.00) to the Organ and Tissue Donor Program. This contribution would be added to the license fee and credited to a separate account established in the State Treasurer's office for use by DHEC for this program.

Preservation of Unidentified Bodies (S. 968, Sen. Jackson). This bill requires a coroner, if he is unable to identify a body through reasonable efforts, to forward the body to the Medical University of South Carolina (MUSC) or another suitable facility for preservation. The body must be preserved for at least 30 days unless identified within that time. If the body remains unidentified at the end of the 30-day period, then MUSC may either (a) retain possession of the body for its use and benefit, or (b) return the body to the coroner of the county where death occurred for disposition as provided by law. A facility other than MUSC utilized by the coroner for storage may dispose of the body or return the body to the coroner of the county where death occurred for disposition, both as provided by law.

The bill also provides that when an unidentified body is preserved at MUSC, the county is responsible for transporting the body to and from that facility; however, the county would not be responsible for the cost of preserving the body at that institution.

Copy of Psychologist's Code of Ethics No Longer Must Be Filed With Secretary of State (S. 1047, Sen. Courson). If this legislation is adopted, the State Board of Examiners in Psychology no longer would be required to

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file with the Secretary of State a copy of the code of ethics for psychologists practicing in this state.

Ways and Means

Counties May Impose Additional Gas Tax for Roads (H. 4640, Rep. Govan). This bill allows a county to enact an additional one cent per gallon tax on gasoline sold at retail within the county for purposes of construction of new roads, maintenance of existing roads, or both within the county. When the county governing body approves an ordinance imposing this tax, it must be forwarded to the county election commission, which in turn must conduct a referendum on the question of implementing the tax. In addition to stating the use of tax proceeds, the referendum also must specify the maximum length of time, not exceeding 5 years, for which the tax will be imposed. If the referendum is approved, this tax is imposed on the first date of the second calendar quarter following the referendum. If voters reject the additional tax, then the question of imposing the tax may not be resubmitted to the voters until 1 year following the rejection of the referendum. If the tax is imposed for more than one purpose (i.e., both road construction and maintenance), then the county governing body must determine the priority for the expenditure of the net proceeds of the tax for the purposes stated in the referendum.

A county may not under these provisions impose more than a one cent per gallon gasoline tax. Although a referendum may be held to impose a tax before expiration of the existing tax, reimposition may not occur until the tax then in effect has expired. Revenue from the local gasoline tax must be credited to a separate fund in the State Treasury created to receive the local gasoline tax revenues in the county imposing the tax. Revenues from the fund would be distributed quarterly to the county or counties imposing this tax.

Property Tax Exemption for a Vehicle Owned by Parent of Handicapped Child (H. 4646, Rep. Davenport). This bill exempts from property taxation 1 personal motor vehicle owned by the parent or legal guardian of a handicapped child, provided that the vehicle is used to transport the child and the child's wheelchair. Under these provisions, a "handicapped child" is defined as a person under age 18 who is confined to a wheelchair. If adopted, these provisions would apply for vehicle tax years beginning after June 30, 1994.

Filing of Refund Claims Pursuant to Settlement of Federal Retirees' Lawsuits (H. 4647, Rep. Keyserling). This joint resolution requires the Department of Revenue and Taxation, within 10 days of the governor's approval implementing the settlement of the federal retirees' lawsuits (Bass vs. State of South Carolina and Perri vs. State of South Carolina) to ensure publication of a notice in newspapers of general circulation in each county information that retirees receiving a federal pension, including persons who retired from the armed forces prior to 1989, or heirs or surviving spouses of retirees, may be entitled to a refund of state income taxes paid from 1985 through 1988, plus interest. The notice of information must inform taxpayers

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that to qualify for a refund each affected taxpayer must contact the Department between the 11th and 40th day from the date the legislation approving the settlement is signed by the governor. The notice also must inform the affected taxpayer to provide the Department with information it considers necessary to begin the process of determining eligibility for refunds. If, however, a taxpayer has previously perfected an appeal or filed a request seeking a refund which was accepted by the Department, then the individual is not required to make a new filing. In lieu of publishing the legal notice, the Department may fulfill the notice obligation if the newspaper publishes the notice in an area reserved for public meetings' announcements or in another prominent section of the paper where the public can reasonably expect to see notices of this type. The Department also must mail written notification to each county veterans' affairs officer.

Any taxpayer who notifies the Department within the period provided in this joint resolution that he is eligible for an income tax refund, or a surviving spouse, heir or personal representative of the taxpayer who would have been eligible for this refund, is eligible for the refund under the same terms and conditions of the settlement agreement as those persons who had been a party or member of the class to which the settlement is applicable.

Aeronautics Division Has Authority Over State Aircraft (H. 4648, Rep. Cromer). This bill expands the authority of the Aeronautics Division of the Department of Commerce so as to include authority over all aircraft owned, operated and maintained by the State, its departments and agencies. The bill also requires the Division to conduct a study to examine the feasibility and potential cost savings of providing shuttle flights in state-owned aircraft to frequently-traveled destinations. The Division must report its findings to the General Assembly through the House Ways and Means and Senate Finance Committees by January 1, 1995. The Division also must sell three state-owned aircraft.

Income Tax Deduction for Retirement Benefits Received from Government Pension Plan of Another State (H. 4655, Rep. Waldrop). This bill provides an income tax deduction for retirement benefits received from a state or local government public employee pension plan of a state which (1) imposed no state individual income tax when the pension was earned and (2) imposes no state individual income tax in the taxable year for which the deduction is claimed.

Issuance of Dealer License Plates (H. 4660, Rep. Neilson). This bill allows dealer license plates to be issued for use on a motor vehicle loaned to a dealer for demonstration purposes and changes current provisions pertaining to the issuance and cost of these plates, making it easier for dealers who sell a limited number of vehicles in a given year to obtain dealer plates. A summary of how these plates would be distributed can be found on the following page.

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Issuance of Dealer Plates

<u># of Vehicles Sold in Year</u>	<u>Current Law # Plates Issued</u>	<u>If H. 4660 Is Adopted</u>
11---49	1 plate issued; cost of \$300	2 plates issued; First plate costs \$150; second plate costs \$20.
50 or more	1 plate issued for every 20 vehicles sold; each plate costs \$20.	3 plates issued for first 50 vehi- cles sold, and 1 plate for every 25 additional vehi- cles sold. First plate costs \$150; additional plates cost \$20 each.

The bill also provides for distribution of the \$150 fee required to obtain the first license plate, requiring that \$20 of this fee be remitted to the Department of Revenue and Taxation and \$130 be remitted to the treasury of the county where the dealer is licensed. The bill also expands the use of the transporter license plate, so as to allow this plate to be used for transporting motor vehicles and heavy duty trucks from a place of sale to a place of repair between 7:00 am and 8:00 pm and to road test the repaired vehicle or truck within a 5-mile radius of the repair facility during those same hours.

Notification to Taxpayers Affected by Settlement of Federal Retiree's Suit (H. 4667, Rep. Hutson). This joint resolution requires the Department of Revenue and Taxation, beginning with the effective date of these provisions and continuing until July 1, 1994, to provide certain notification as a result of the settlement of the federal retirees' lawsuits in Bass vs. State of South Carolina and Perri vs. State of South Carolina. The Department must notify taxpayers who reported federal retirement income on their South Carolina income tax returns between 1985 and 1988 that they may be entitled to a refund of a portion of those taxes plus interest. Notice need not be given to a taxpayer whom the Department knows is a class action plaintiff in the two lawsuits listed above or who previously had filed a refund claims based on the Davis vs. Michigan decision. Notice must also be published in newspapers across the state and must inform taxpayers, or their heirs or surviving spouses, that to qualify for a refund they must contact the Department by December 31, 1994 and file claims for refunds with the Department. A taxpayer is not required to make a new filing if he has previously perfected an appeal or filed a request seeking a refund which was accepted by the Department.

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A person not a part of these class-action suits or who has not previously filed a refund claim and who files a valid refund claim with the Department in 1994 is eligible for a refund under the same terms and conditions of the settlement agreement as if that person had been a party to or member of the class to which the settlement is applicable. Refunds must be paid to these taxpayers beginning on or before July 1, 1995, and if a taxpayer is deceased, then the refund claim may be filed by his personal representative, surviving spouse or other heir.

Zero-Base Budget (H. 4674, Rep. Clyborne). This bill requires the governor, beginning in fiscal year 1995-1996, to use a "zero base" budget process when preparing the proposed state budget.

Provision of Liability Insurance by Budget and Control Board (H. 4679, Rep. Boan). Under these provisions, when the Budget and Control Board provides liability insurance for state agencies and employees, such insurance must be provided through the Board's Division of Insurance Services. Currently this insurance is provided by the Board's Division of General Services. The bill also authorizes the Board to provide liability coverage for state-employed physicians or dentists who are paid for professional services from fees paid to a practice plan authorized by their employers, regardless of whether or not the practice plan is incorporated and registered with the Secretary of State. Furthermore, the State's Tort Claims Act also extends to licensed physicians and dentists otherwise covered who receive fees from any practice plan authorized by his employer, whether or not that plan is incorporated and registered with the Secretary of State.

Division on Aging of Governor's Office Must Designate Area Agencies (S. 947, Sen. Giese). This bill requires the Division of Aging of the Governor's Office to designate area agencies on aging, which in turn must designate focal points. These focal points must provide leadership on aging issues in their respective communities and must carry out a comprehensive service system for older adults or coordinate with a comprehensive service system in providing services for older adults. These area agencies on aging would represent the regional level of the state aging network, while the focal points would represent the local level of the state aging network.

State Department of Education Must Allocate Funds to Clemson PSA (S. 950, Sen. Setzler). This joint resolution requires the State Department of Education, using federal funds authorized pursuant to South Carolina's 3-year state plan for vocational-technical education under the Carl Perkins Vocational and Applied Technology and Education Act, to allocate \$118,000 to the Clemson PSA (Public Service Activities). This allocation is for Fiscal Year 1993-1994 and must be used for agricultural education and other services as provided for in the Perkins Act.

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